

Probate Committee Frequently Asked Questions

Access to Court Mental Health Records

Question: Who can get access to a court's Mental Health records and what can they get?

Answer: Administrative Rule 9(K) indicates that Mental Health Records are confidential. Different courts have apparently taken different approaches to what this means. The Probate Committee has contacted Ann O'Connor, the Public Information Counselor for the State of Indiana and Tom Jones of the State Court Administrator's Office. The consensus opinion of Miss O'Connor, Mr. Jones and the Committee is that all matters contained on the Chronological Case Summary (CCS) are available to the public. The file itself should not be made public since it will contain not only legal proceedings but also medical information about the Respondent. The name of a person, the fact that a commitment was or was not granted, the duration or type of commitment, and the termination of the commitment are matters that should be available to the public, but specifically to law enforcement and Prosecutors.

Minor's Claim Settlements

Question: Can a minor's settlement be approved in a "CT" case without the need to open a separate "GU" case?

Answer: It depends. The Probate Committee has seen and heard that many personal injury lawyers are submitting forms for the trial court to approve the settlement in cases involving minor's settlements without the necessity of filing a guardianship. The consensus answer of the Probate Committee is that this practice is appropriate but only if the "net" proceeds to the minor are under the amount that requires a guardianship, under \$10,000.00 by current law. "Net" proceeds is the amount after the payment of attorney's fees, costs of litigation, payment of medical expenses, reimbursement of insurance payments or parents out of pocket expenses and other such expenses. If the "net" proceeds exceed \$10,000.00 to the minor then a separate guardianship should be opened.